IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.432 OF 2007.

Vasu Sadanand Kulkarni. ... Appellant.

Versus.

Vijay Rajaram Hiramal & another. ... Respondents.

Ms.Trupti P.Rangnekar for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 6th June, 2007.

P.C.:

1. The challenge in this Appeal is to an order dated 18th May 2007 passed by the learned Judge of the trial Court in vacation. The submission of the learned Advocate for the Appellant is that by the said order, the prayer for ad-interim relief has been rejected.

2. Paragraph 2 of the said order reads thus:

> "The learned Advocate Mr.Sarogi for Deft.No.1 makes statement hat Deft.No.1 is carrying on business from the wooden cabin at the suit site and he has no intention to erect any structure of permanent nature. The learned Advocate for the plaintiff dispute this position mentioned din the statement. The Deft.No.1 to file reply in the Motion. The next adjd.date of the motion in 6.7.2001. The Learned Advocate for the Plaintiff requests to

prepone the said adjd. date. Hence, it is done and it is preponed from 6.7.07 to 11.6.07."

In the order dated 18th May 2007, the learned trial Judge has not at all stated that the prayer for grant of the ad-interim relief has been rejected. On the contrary after recording the statement of the Advocate appearing for the 1st Respondent, the learned Judge has kept the matter on 11th June 2007 to enable the 1st Respondent to file reply. It is obvious that the prayer for ad-interim relief will be considered by the learned trial Judge on the date fixed in the Notice of Motion. In view of this position, the Appeal from Order is not entertained and the same is disposed of.

Judge.